

**NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

CURTIS MAURICE HUNTER,

Defendant and Appellant.

B205552

(Los Angeles County  
Super. Ct. No. TA087132)

APPEAL from a judgment of the Superior Court of Los Angeles County,  
Joel M. Wallenstein, Judge. Affirmed as modified.

Leonard J. Klaif, under appointment by the Court of Appeal, for Defendant and  
Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant  
Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Linda C.  
Johnson and Robert David Breton, Deputy Attorneys General, for Plaintiff and  
Respondent.

---

Curtis Maurice Hunter appeals from the judgment entered following his conviction on two counts of attempted premeditated murder, contending only that the clerk's minute order and abstract of judgment must be corrected to accurately reflect the sentence actually imposed. We correct the clerical errors and affirm the judgment as modified.

### **FACTUAL AND PROCEDURAL BACKGROUND**

Fellow Franklin Crips gang members, 15-year-old Anthony Bickham and 16-year-old Shaw Turner, were walking near the border of territory claimed by a rival gang, Hacienda Village Bloods. Hunter, a member of the Bloods, approached Bickham and Turner on his bicycle. Recognizing them as Crips, Hunter pulled a gun and fired several shots, narrowly missing Bickham and severely injuring Turner.

A jury convicted Hunter of attempted willful, deliberate and premeditated murder of Bickham (count 1) and Turner (count 2). The jury also found Hunter had committed both offenses for the benefit of a criminal street gang and had personally and intentionally discharged a firearm. As to count 2, the jury further found Hunter had personally and intentionally discharged a firearm proximately causing great bodily injury and had personally inflicted great bodily injury.

Hunter was sentenced to an aggregate state prison term of 75 years to life: An indeterminate life term for attempted premeditated murder on count 1, with a minimum parole eligibility date of 15 years under Penal Code section 186.22, subdivision (b)(5), plus 20 years for the firearm-use enhancement under Penal Code section 12022.53, subdivision (c); and a consecutive indeterminate life term for attempted premeditated murder on count 2, with a minimum parole eligibility date of 15 years, plus 25-years-to-life for the firearm-use enhancement under Penal Code section 12022.53, subdivision (d). Sentencing on the remaining enhancements was stayed.

### **DISCUSSION**

Pursuant to Penal Code section 186.22, subdivision (b)(5), a defendant convicted of a gang-related felony punishable by an indeterminate life term is not eligible for parole before serving at least 15 years in state prison. (*People v. Lopez* (2005) 34 Cal.4th 1002, 1006-1011.) The trial court at sentencing properly imposed the 15-year minimum parole

eligibility date for each of Hunter's two indeterminate life terms for attempted premeditated murder. However, the clerk's minute order, as well as the abstract of judgment, erroneously reflect the addition of a 15-year enhancement to each of his indeterminate life term sentences,<sup>1</sup> rather than the imposition of the 15-year minimum parole eligibility date.<sup>2</sup> The parties do not dispute the oral pronouncement of judgment controls over the clerk's minute order. Any discrepancy between the two is presumed to be clerical error in the minute order (*People v. Farell* (2002) 28 Cal.4th 381, 384, fn. 2; *People v. Mesa* (1975) 14 Cal.3d 466, 471), which can be corrected at any time to reflect the court's oral pronouncement. (See *People v. Mitchell* (2001) 26 Cal.4th 181, 183, 185-188.) Accordingly, we order the minute order and the abstract of judgment corrected to properly reflect a 15-year minimum parole eligibility date on each of the indeterminate life terms imposed on counts 1 and 2.<sup>3</sup>

### **DISPOSITION**

The judgment is affirmed as modified. The superior court is directed to prepare and forward to the Department of Corrections and Rehabilitation a corrected abstract of judgment that deletes the two 15-year enhancements and indicates instead a minimum

---

<sup>1</sup> The error is compounded by reference in the abstract of judgment to Penal Code section 186.22, subdivision (b)(1), as the source of the enhancement. This subdivision prescribes determinate term enhancement of two, three, four, five and 10 years under various circumstances, but no 15-year enhancement.

<sup>2</sup> We disagree with Hunter's assertion the sentencing transcript "is confusing about whether the [trial] court enhanced the sentence in that manner or stated that the gang enhancement set the minimum term for parole eligibility" on the attempted premeditated murder convictions. The transcript clearly shows the trial court imposed the 15-year minimum term for parole eligibility pursuant to Penal Code section 186.22, subdivision (b)(5), which is not an enhancement but an "alternate penalty for the underlying felony itself." (*People v. Jefferson* (1999) 21 Cal.4th 86, 101.)

<sup>3</sup> The minute order and abstract of judgment also appear to misstate the firearm-use enhancement imposed on count two pursuant to Penal Code section 12022.53, subdivision (d), as an additional 25-year determinate term, rather than an indeterminate 25-years-to-life term. This error, too, should be corrected by the trial court.

parole eligibility date of 15 years for each of the indeterminate life terms imposed on counts 1 and 2 pursuant to Penal Code section 186.22, subdivision (b)(5).

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

PERLUSS, P. J.

We concur:

ZELON, J.

JACKSON, J.